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FISCAL IMPACT STATEMENT

LS 6243

BILL NUMBER: HB 1621

NOTE PREPARED: Nov 14, 2004

BILL AMENDED:

SUBJECT: Incarceration Issues.

FIRST AUTHOR: Rep. Woodruff

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. It requires a court to imprison a person for at least 60 days if: (1) the person is convicted of certain operating while intoxicated (OWI) offenses; and (2) at the time of the offense, the person's driving privileges were suspended for a prior OWI conviction.
- B. It requires prisoners to reimburse counties for costs of incarceration, and requires counties to establish nonreverting prisoner reimbursement funds.
- C. It repeals provisions establishing a separate prisoner reimbursement system for small counties.

Effective Date: July 1, 2005.

Explanation of State Expenditures: *Provision A* could affect nine classes of traffic offenses related to operating a vehicle while intoxicated. These classes are shown in the table below.

The number of traffic offenders with suspended licenses is not known. The number of drivers who have suspended licenses and been re-arrested and convicted for driving while intoxicated with a suspended license is also not known.

Under this provision, if an offender's driving privilege is suspended and the offender is convicted of committing a Class A misdemeanor or felony under the drunk driving laws, the offender would have to be imprisoned for at least 60 days. On average, felony offenders serving a term of incarceration in a state facility serve a sentence greater than 60 days. If the offender violating this provision by committing a felony offense would have served a term of incarceration less than 60 days in a state facility, then costs to the state could increase. *No*

information is available on the sentencing outcome of these persons who were issued a guilty citation.

The average expenditure to house an adult offender was \$21,514 in FY 2004. (This does not include the cost of new construction.) If offenders can be housed in existing facilities, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

<u>IC</u>	<u>Description</u>	<u>Guilty Citations in FY 2003</u>	<u>Term of Imprisonment</u>
<u>Class A Misdemeanor</u>			
9-30-5-1	Operating a vehicle with at least 0.15 blood alcohol content	11,070	Up to one year
9-30-5-2	OWI in a manner that endangers a person	26,990	
9-30-5-7(a)	Interlock device violation	2	
9-30-5-7(b)	Tampering with an interlock device	0	
<u>Class D Felony</u>			
9-30-5-3	OWI with previous conviction within past 5 years	6,449	6 months to 3 years or reduce to Class A misdemeanor
9-30-5-4	OWI causing serious bodily injury to another person	128	
<u>Class C Felony</u>			
9-30-5-4	OWI causing serious bodily injury with previous conviction within past 5 years	(see above)	2 to 8 years
9-30-5-5	OWI causing death	55	
<u>Class B Felony</u>			
9-30-5-5	OWI causing death with previous conviction within past 5 years	(see above)	6 to 20 years

Explanation of State Revenues:

Explanation of Local Expenditures: *Provision A:* A Class A misdemeanor is punishable by up to one year in jail. If an offender would otherwise have served less than 60 days of incarceration or completed community service instead of a jail sentence, the length of stay in a county jail may increase, increasing the jail population. (See number of guilty citations above.) The average daily cost to incarcerate a prisoner in a county jail is \$44.

Explanation of Local Revenues: *Provision B and C:* Under current law, any county is permitted to establish a county Prisoner Reimbursement Fund if the county legislative body adopts an ordinance electing to do so. The jail inmates who would pay these funds are local government officials convicted of committing certain misdemeanors and felonies while performing official duties. The daily fee cannot be more than \$30. Under

current law, either the county sheriff or county attorney may collect the money.

As proposed, this bill requires these funds to be established for the court to impose the fee, and for the sheriff or county attorney to collect a per diem fee of not more than \$30.

Amounts in the fund may only be used by the county for operating, constructing, repairing, remodeling, enlarging, and equipping either a county jail or a juvenile detention center and only is appropriated by the county council.

The following table summarizes the differences between current law and the changes proposed under this bill.

<u>Provision</u>	<u>Current Law</u>	<u>Proposed</u>
Counties Establishing Fund	Any County Adopting an Ordinance Electing to Establish a Nonreverting County Prisoner Reimbursement Fund	All Counties Are Required to Establish this Fund
Imposing Fees	Gives court discretion	Requires court to impose fee
Fee Amount	Maximum daily fee of \$30	Maximum daily fee of \$30
Types of Offenses Fees Apply	Limited to ten misdemeanors and one felony that local government officials could be convicted of committing while performing official duties	Applies to all misdemeanants and felons not under the custody of the Department of Correction

Prisoners who are incarcerated for any felony or misdemeanor for longer than 72 hours and from a family with an income greater than 150% of the federal income poverty level would be required to reimburse the county for the costs of incarceration at the maximum \$30 per day.

The Indiana Sheriffs' Association reports that six counties have indicted that their county councils have passed an ordinance to establish a nonreverting county prisoner reimbursement fund.

State Agencies Affected: Department of Correction.

Local Agencies Affected: County Sheriffs.

Information Sources: Bureau of Motor Vehicles, Indiana Sheriffs' Association.

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